

REMARKS

This Amendment is made in response to the Office Action of September 24, 2004. Claims 35-62 are pending in this application. By this Amendment, Applicants have amended claims 35, 45 and 54 to better define the presently claimed invention. Additionally, new claims 63-67 are being presented. Applicants respectfully reconsideration of all the pending claims in view of the remarks presented below.

Claims 35-40, 42-50, 52-54 and 58-62 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,171,327 to Daniel et al. ("the Daniel patent"). Applicant notes that the pending claimed invention defined in claims 35, 45 and 54 recite an inner catheter having a distal portion that includes a length of flexible tubing. Applicants have carefully reviewed the Daniel patent and note that the inner catheter, which the Examiner has identified as component 172 in FIG. 20 or component 372 in FIG. 23, includes a short distal tapered portion 180 which extends distally beyond the recovery sheath (150). However, this distal tapered portion 180 is simply the end of a large insert 172. This tapered portion 180 extends outside of the recovery housing only a short distance is designed to provide a relatively soft and atraumatic tip. However, the portion of the inner catheter, or insert catheter 172 as it is referred to in the Daniel patent, does not include a distal portion including a length of flexible tubing which extends beyond the distal end of the recovery catheter, as is recited in the pending claims. Applicants' presently claimed invention provides this length of flexible tubing to track over the guidewire and to minimize the possibility of the blood vessel straightening as the larger diameter recovery sheath is advanced over the distal portion of the inner catheter. (see page 17, paragraph 28 of Applicants' specification). This particular structure is simply not shown in the Daniel patent. Quite to the contrary, the tapered portion 180 of the Daniel device is a bulky, short atraumatic tip of large diameter to fill in the space created by the lumen of the housing 152 of the retrieval catheter 150. Accordingly, Applicants believe that the presently claimed invention is neither shown nor suggested in the Daniel patent. Applicants respectfully request the Examiner to withdraw the Daniel patent as an anticipatory reference.

Claims 41 and 51 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Daniel patent in view of U.S. Patent No. 5,201,757 to Heyn et al. ("the Heyn patent"). In view of the remarks addressed above with respect to the presently claimed invention defined by claims 35 and 45, it is believed that the particular combination of the Daniel patent with the Heyn patent fails to achieve the claimed structure. Applicants respectfully request the Examiner to withdraw the obviousness rejections against claims 41 and 51.

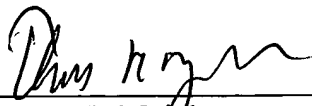
Applicants note that claims 55-57 were not rejected by the Examiner. Therefore, it appears that those claims may have been allowable. Regardless, Applicants believe that in view of the remarks above with respect to the remaining pending claims, these claims also would be patentably distinct from the art cited by the Examiner. Allowance of these claims is respectfully requested and Applicants respectfully request that the Examiner indicate whether those claims were allowable as dependent from the originally drafted independent claims or as depending from the currently amended independent claims.

In view of the foregoing, it is respectfully urged that all of the present claims of the application are patentable and in a condition for allowance. The undersigned attorney can be reached at (310) 824-5555 to facilitate prosecution of this application, if necessary.

In light of the above amendments and remarks, Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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